

**AN ORDINANCE OF THE TOWNSHIP OF WOOLWICH AMENDING CHAPTER 14 OF THE CODE OF
THE TOWNSHIP OF WOOLWICH ENTITLED DEFENSE AND INDEMNIFICATION**

2023-32

WHEREAS, the Township Committee of the Township of Woolwich intends to amend Chapter 14 of the Code of the Township of Woolwich as follows (insertion of language as underlined):

§ 14-1 Statutory authority; conditions for indemnification.

Consistent with the provision of N.J.S.A. 59:10-4 and the Tort Claims Act,¹¹ the Township of Woolwich shall indemnify and hold its current and former employees, elected officials and/or appointees of the Joint Land Use Board ("JLUB") harmless against any judgment for exemplary or punitive damages incurred by them in the defense of an action resulting from the employee's, elected official's or JLUB Appointees civil violation of state or federal law, including fees and costs and attorneys' fees, up, through and including any appeals, subject only to the conditions set forth below:

A.

The employees, elected officials, and/or appointees of the JLUB of the Township of Woolwich must notify the Township of Woolwich as soon as possible as to any action threatened against the employee, elected official and/or JLUB appointee.

B.

The Township of Woolwich reserves the option to defend an employee, elected official or JLUB appointee of the Township of Woolwich or provide the employee, elected official or JLUB appointee with the means for a defense or indemnify the employee, elected official and/or JLUB appointee for his/her defense.

C.

If the Township of Woolwich provides for the defense of any action for an employee, elected officials or JLUB appointee, as a condition of such defense, the Township may assume exclusive control over the representation of such person defended and such person shall cooperate fully with the Township.

D.

The indemnification shall apply to any action, statements, conduct or any action in which the employee, elected official and/or JLUB appointee is involved giving rise to the lawsuit, claim, cross claim, counterclaim and demand, even if it is later decided by a judge or jury to have been unlawful or improper as to the plaintiff; provided, however, that this indemnification shall not apply and shall be totally void and have no effect with respect to any action, statements, conduct or inaction of an employee, elected official and or JLUB appointee, giving rise to any such lawsuit, claim and demand:

(1)

That was not within the scope of the employee's employment, elected official or JLUB appointee capacity;

(2)

If the act or omission was due to actual fraud, willful misconduct or actual malice; or

(3)

That constituted a crime.

E.

In the event that it is ultimately determined that the employee, elected official and/or JLUB appointee of the Township of Woolwich cannot be indemnified as per Subsection C above, then the employee, elected official and/or JLUB appointee agrees to reimburse the Township of Woolwich for monetary amounts, fees and costs, including attorneys' fees, which have been advanced or provided by the Township of Woolwich to the employee/elected official or on the public employee, elected official and/or JLUB appointee's behalf.

SECTION 2.

Should any section, subsection, paragraph, clause, sentence or other portion of this ordinance be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this ordinance.

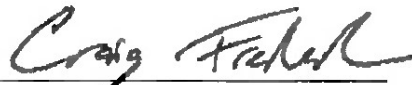
SECTION 3.

Any and all Ordinances previously adopted that are inconsistent in whole or in part with this ordinance, are hereby repealed to the extent of their inconsistency.

SECTION 4.


This Ordinance shall become effective upon final adoption and publication in accordance with law.

TOWNSHIP OF WOOLWICH



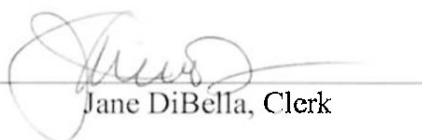
Craig Frederick, Mayor

ATTEST:


Jane DiBella, Clerk

CERTIFICATION

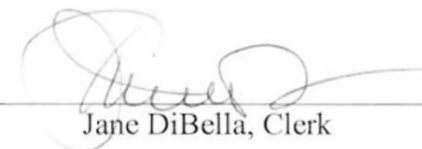
The foregoing Ordinance was introduced by the Township Committee of the Township of Woolwich at a meeting held on the 20th day of November, 2023. It will further be considered for final adoption upon second reading and subsequent to a public hearing to be conducted on such Ordinance, at the next regular meeting of the Woolwich Township Committee at which time and place any interested person(s) may be heard. Said meeting to be held on the 4th day of December, 2023 at the Woolwich Township Municipal Building, beginning at 6:30 p.m.



Jane DiBella, Clerk

CERTIFICATION OF ADOPTION

The foregoing ordinance was adopted by the Township Committee of the Township of Woolwich at a meeting held on the 4th day of December, 2023.



Jane DiBella, Clerk

Chapter 14

DEFENSE AND INDEMNIFICATION

**§ 14-1. Statutory authority;
conditions for
indemnification.**

[HISTORY: Adopted by the Township Committee of the Township of Woolwich 4-15-1996 by Ord. No. 96-4. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 29.

§ 14-1. Statutory authority; conditions for indemnification.

Consistent with the provision of N.J.S.A. 59:10-4 and the Tort Claims Act,¹ the Township of Woolwich shall indemnify and hold its current and former employees, ~~and/or~~ elected officials and/or appointees of the Joint Land Use Board ("JLUB") harmless against any judgment for exemplary or punitive damages incurred by them in the defense of an action resulting from the employee's, ~~and/or~~ elected official's or JLUB appointee's civil violation of state or federal law, including fees and costs and attorneys' fees, up, through and including any appeals, subject only to the conditions set forth below:

- A. The employees, ~~and/or~~ elected officials and/or appointees of the JLUB of the Township of Woolwich must notify the Township of Woolwich as soon as possible as to any action threatened against the employee, ~~and/or~~ elected official, and/or JLUB appointee.
- B. The Township of Woolwich reserves the option to defend an employee, ~~and/or~~ elected official or JLUB appointee of the Township of Woolwich or provide the employee, ~~and/or~~ elected official or JLUB appointee with the means for a defense or indemnify the employee, ~~and/or~~ elected official and/or JLUB appointee for his/her defense.
- C. If the Township of Woolwich provides for the defense of any action for an employee, elected official or JLUB appointee, as a condition of such defense, the Township may assume exclusive control over the representation of such person defended and such person shall cooperate fully with the Township.
- D. The indemnification shall apply to any action, statements, conduct or any action in which the employee, ~~and/or~~ elected official, and/or JLUB appointee is involved giving rise to the lawsuit, claim, cross-claim, counterclaim and demand, even if it is later decided by a judge or jury to have been unlawful or improper as to the plaintiff; provided, however, that this indemnification shall not apply and shall be totally void and have no effect with respect to any action, statements, conduct or inaction of an employee, ~~and/or~~ elected official, and/or JLUB appointee, giving rise to any such lawsuit, claim and demand:
 - (1) That was not within the scope of the employee's employment, ~~and/or~~ elected official's or JLUB appointee capacity;
 - (2) If the act or omission was due to actual fraud, willful misconduct or actual malice; or

[REDACTED]
(3) That constituted a crime.

1. Editor's Note: See N.J.S.A. 59:1-1 et seq.

- E. In the event that it is ultimately determined that the employee, elected official and/or JLUB appointee of the Township of Woolwich cannot be indemnified as per Subsection C above, then the employee, elected official and/or JLUB appointee agrees to reimburse the Township of Woolwich for monetary amounts, fees and costs, including attorneys' fees, which have been advanced or provided by the Township of Woolwich to the employee/elect^sed official or on the public employee's/^s elect^sed official, and/or JLUB appointee's behalf.